

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DANIEL RAYMOND CARLSON,

Plaintiff,

-v-

DEPARTMENT OF JUSTICE,

Defendant.
-----X

10 Civ. 5149 (PAE) (KNF)

ORDER ADOPTING
REPORT &
RECOMMENDATION

PAUL A. ENGELMAYER, District Judge:

Defendant the United States Department of Justice filed a motion for summary judgment against *pro se* plaintiff Daniel Raymond Carlson's Complaint claiming that the Department of Justice improperly withheld information from him despite a request under the Freedom of Information Act, 5 U.S.C. § 552. On January 18, 2012, the Honorable Kevin N. Fox, United States Magistrate Judge, issued a Report and Recommendation ("R&R") that defendant's motion for summary judgment should be granted and Carlson's Complaint should be dismissed. *See* Dkt 37; *Carlson v. DOJ*, No. 10-cv-5149, 2012 U.S. Dist. LEXIS 6361 (S.D.N.Y. Jan. 18, 2012) (Report and Recommendation).

A. Applicable Legal Standard

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). When specific objections are made, "[t]he district judge must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3); *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). To accept those portions of the R&R to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." *King v. Greiner*, No. 02-cv-5810, 2009 U.S. Dist. LEXIS 58771, at *10 (S.D.N.Y. July 8, 2009) (citation omitted); *see also Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). Carlson was clearly alerted to the fact that any objection to the R&R was due by no later than February 2, 2012. *See Carlson*, 2012 U.S. Dist. LEXIS 6361, at *16-17. To date, no objection has been received and no extension of time to submit an objection has been granted.

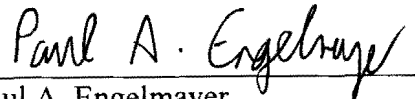
B. Discussion

Careful review of the R&R reveals no facial error in its conclusions; the R&R is therefore adopted in its entirety. Carlson's failure to object in a timely manner operates as a waiver of appellate review. *See DeLeon v. Strack*, 234 F.3d 84, 86 (2d Cir. 2000) (citing *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989)).

CONCLUSION

For the foregoing reasons, the Court adopts the R&R (Dkt. 37) in its entirety. The Clerk of Court is directed to terminate the motion at docket number 23 and to close this case.

SO ORDERED.


Paul A. Engelmayer
United States District Judge

Dated: March 19, 2012
New York, New York